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AUTHORITY: 7 U.S.C. 1621–1627.

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Subpart A—Grading of Poultry Products and Rabbit Products

DEFINITIONS

§ 70.1 Definitions.

For the purpose of the regulations in this part, words in the singular shall be deemed to import the plural and vice versa, as the case may demand. Unless the context otherwise requires, the terms shall have the following meaning:

Acceptable means suitable for the purpose intended by the AMS.

Act means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621 *et seq.*) or any other act of Congress conferring like authority.

Administrator means the Administrator of the AMS or any other officer or employee of the Department to whom there has heretofore been delegated or to whom there may hereafter be delegated the authority to act in the Administrator's stead.

Agricultural Marketing Service or *AMS* means the Agricultural Marketing Service of the Department.

Applicant means any interested person who requests any grading service.

Auditing services means the act of providing independent verification of written quality assurance and value added standards for production, processing and distribution of poultry and rabbits. Auditing services are performed by graders authorized by the Secretary to

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perform such audits and the service provided will be in accordance with the provisions of this part for grading services, as appropriate.

Carcass means any poultry or rabbit carcass.

Chief of the Grading Branch means Chief of the Grading Branch, Poultry Programs, AMS.

Class means any subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind or species.

Condition means any condition, including but not being limited to, the state of preservation, cleanliness, or soundness of any product; or any condition, including but not limited to the processing, handling, or packaging which affects such product.

Condition and wholesomeness means the condition of any product and its healthfulness and fitness for human food.

Department means the United States Department of Agriculture (USDA).

Free from protruding feathers or hairs means that a poultry carcass, part, or poultry product with the skin on is free from protruding feathers or hairs which are visible to a grader during an examination at normal operating speeds. However, a poultry carcass, part, or poultry product may be considered as being free from protruding feathers or hairs if it has a generally clean appearance and if not more than an occasional protruding feather or hair is evidenced during a more careful examination.

Giblets means the following poultry organs when properly trimmed and washed: The liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed, and the gizzard from which the lining and contents have been removed. With respect to rabbits "giblets" means the liver from which the bile sac has been removed and the heart from which the pericardial sac has been removed.

Grader means any Federal or State employee or the employee of a local jurisdiction or cooperating agency to whom a license has been issued by the Secretary to investigate and certify in accordance with the regulations in this

part the class, quality, quantity, or condition of products.

Grading or grading service means: (a) The act whereby a grader determines, according to the regulations in this part the class, quality, quantity, or condition of any product by examining each unit thereof or each unit of the representative sample thereof drawn by a grader, and issues a grading certificate with respect thereto, except that with respect to grading service performed on a resident basis, the issuance of a grading certificate shall be pursuant to a request therefor by the applicant or the Service; (b) the act whereby the grader identifies, according to the regulations in this part, the graded product; (c) with respect to any official plant, the act whereby a grader determines that the product in such plant was processed, handled, and packaged in accordance with § 70.110, or (d) any regrading or any appeal grading of a previously graded product.

Grading certificate means a statement, either written or printed, issued by a grader, pursuant to the Act and the regulations in this part, relative to the class, quality, quantity, or condition of a product.

Holiday or legal holiday means the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5, of the United States Code.

Identify means to apply official identification to products or the containers thereof.

Interested party means any person financially interested in a transaction involving any grading service.

Lightly shaded discolorations on poultry are generally reddish in color and are usually confined to areas of the skin or the surface of the flesh.

Moderately shaded discolorations on poultry skin or flesh are areas that are generally dark red or bluish, or are areas of flesh bruising. Moderately shaded discolorations are free from blood clots that are visible to a grader during an examination of the carcass, part, or poultry product at normal grading speeds.

National supervisor means the officer in charge of the poultry grading service of the AMS, and other employees of the Department as may be designated by the national supervisor.

Office of grading means the office of any grader.

Official plant or official establishment means one or more buildings or parts thereof comprising a single plant in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for grading service and in which grading is carried on in accordance with the regulations in this part.

Person means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

Poultry means any kind of domesticated bird, including, but not being limited to, chickens, turkeys, ducks, geese, pigeons, and guineas.

Poultry food product means any article of human food or any article intended for or capable of being so used, which is prepared or derived in whole or in substantial part, from any edible part or parts of poultry.

Poultry product means any ready-to-cook poultry carcass or part therefrom or any specified poultry food product.

Poultry grading service means the personnel who are actively engaged in the administration, application, and direction of poultry and rabbit grading programs and services pursuant to the regulations in this part.

Quality means the inherent properties of any product which determine its relative degree of excellence.

Rabbit means any domesticated rabbit whether live or dead.

Rabbit product means any ready-to-cook rabbit carcass or part therefrom.

Ready-to-cook poultry means any slaughtered poultry free from protruding feathers, vestigial feathers (hair or down as the case may be) and from which the head, feet, crop, oil gland, trachea, esophagus, entrails, mature reproductive organs, and lungs have been removed, and the kidneys have been removed from certain mature poultry as defined in 9 CFR part 381, and with or without the giblets, and which is suitable for cooking without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of poultry or other parts of poultry as defined in 9 CFR part 381 that are suitable for

cooking without need of further processing.

Ready-to-cook rabbit means any rabbit which has been slaughtered for human food, from which the head, blood, skin, feet, and inedible viscera have been removed, that is ready to cook without need of further processing. Ready-to-cook rabbit also means any cut-up or disjointed portion of rabbit or any edible part thereof.

Regional director means any employee of the Department in charge of poultry grading service in a designated geographical area.

Regulations means the provisions of this entire part and such United States classes, standards, and grades for products as may be in effect at the time grading is performed.

Sampling means the act of taking samples of any product for grading or certification.

Secretary means the Secretary of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

Slight discolorations on poultry skin or flesh are areas of discoloration that are generally pinkish in color and do not detract from the appearance of the carcass, part, or poultry product.

Soundness means freedom from external evidence of any disease or condition which may render a carcass or product unfit for food.

State supervisor or Federal-State supervisor means any authorized and designated individual who is in charge of the poultry grading service in a State.

United States Classes, Standards, and Grades for Poultry means the official U.S. Classes, Standards, and Grades for Poultry (AMS 70.200 *et seq.*) that are maintained by and available from Poultry Programs, AMS.

United States Classes, Standards, and Grades for Rabbits means the official U.S. Classes, Standards, and Grades for Rabbits (AMS 70.300 *et seq.*) that are

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maintained by and available from Poultry Programs, AMS.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, as amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 51 FR 17280, May 9, 1986; 60 FR 6639, Feb. 2, 1995; 63 FR 40628, July 30, 1998; 71 FR 42011, July 24, 2006; 72 FR 11775, Mar. 14, 2007]

§ 70.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Pub. L. 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks, or other identification and devices for making such marks or identifications, issued or authorized under section 203 of said Act, and certain misrepresentations concerning the grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed in this section shall have the respective meaning specified:

(a) *Official certificate* means any form of certification, either written or printed, used under this part to certify with respect to the sampling, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) *Official memorandum* means any initial record of findings made by an authorized person in the process of grading or sampling pursuant to this part, any processing or plant-operation report made by an authorized person in connection with grading or sampling under this part, and any report made by an authorized person of services performed pursuant to this part.

(c) *Official mark* means the grade-mark and any other mark, or any variations in such marks, approved by the Administrator and authorized to be affixed to any product or affixed to or printed on the packaging material of any product, stating that the product was graded or indicating the appropriate U.S. grade or condition of the

product, or for maintaining the identity of products graded under this part, including but not limited to, those marks set forth in § 70.51.

(d) *Official identification* means any United States (U.S.) standard designation of class, grade, quality, size, quantity, or condition specified in this part or any symbol, stamp, label, or seal indicating that the product has been officially graded and/or indicating the class, grade, quality, size, quantity, or condition of the product approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) *Official device* means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

[41 FR 23681, June 11, 1976. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 71 FR 42011, July 24, 2006]

GENERAL

§ 70.3 Administration.

The Administrator shall perform, for and under the supervision of the Secretary, such duties as the Secretary may require in the enforcement or administration of the provisions of the Act and the regulations in this part. The Administrator is authorized to waive for limited periods any particular provisions of the regulations in this part to permit experimentation so that new procedures, equipment, grading, and processing techniques may be tested to facilitate definite improvements and at the same time to determine full compliance with the spirit and intent of the regulations in this part. The AMS and its officers and employees shall not be liable in damages through acts of commission or omission in the administration of this part.

[71 FR 42011, July 24, 2006]

§ 70.4 Services available.

The regulations in this part provide for the following kinds of service; and